

Introduced by Senator Cedillo

February 14, 2006

An act to amend Section 11758.46 of, and to add Section 11758.48 to, the Health and Safety Code, and to amend Section 14053 of, and to add Section 14138.2 to, the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1288, as introduced, Cedillo. Medi-Cal: minors: drug and alcohol treatment.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services and under which qualified low-income persons receive health care benefits. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions.

Existing law provides for the Medi-Cal Drug Treatment Program, under which each county enters into contracts with the State Department of Alcohol and Drug Programs for the provision of various drug treatment services to Medi-Cal recipients, or the department directly arranges for the provision of these services if a county elects not to do so.

Existing law provides that a minor who is 12 years of age or older may consent to medical care and counseling relating to the diagnosis and treatment of a drug- or alcohol-related problem. Existing law prohibits a parent of a person under 21 years of age from being held financially responsible for certain health care services to which the person may consent, including those services relating to a drug- or alcohol-related problem.

This bill would make specified findings and declarations regarding the need for and availability of drug and alcohol treatment services to

minors. It would require that residential drug and alcohol treatment services for minors 12 years of age and older be a covered benefit under the Medi-Cal Drug Treatment Program, regardless of the availability of federal financial participation. The bill would require the State Department of Alcohol and Drug Programs to offer a continuum of services ranging from residential treatment facilities to individual and group outpatient counseling services to minors 12 years of age and older, to the extent that these services are not provided by a county, and would require that individual counseling services constitute a significant component of the outpatient drug and alcohol counseling services available to those minors.

Existing law excludes from coverage under the Medi-Cal program care or services for any individual who is an inmate of an institution, except as specified.

This bill would create an exception from this provision for drug and alcohol treatment services for minors who are incarcerated in a juvenile facility, or otherwise under the jurisdiction of the Division of Youth Operations within the Department of Corrections and Rehabilitation. It would require that this benefit apply regardless of the availability of federal financial participation, and that the services available be substantially similar to those available under the Medi-Cal Drug Treatment Program, consistent with the legitimate security interests of the facility.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:
3 (a) In the State of California very few resources exist for youth
4 drug treatment, and specifically for residential or inpatient care.
5 Even the state Drug Medi-Cal program neglects many of the drug
6 treatment needs of youths. In a 2002 Legislative Analyst office
7 survey of the Drug Medi-Cal program, the Office of the
8 Legislative Analyst found that although youths compose 23
9 percent of the caseload for the Drug Medi-Cal program, they
10 receive only 6 to 8 percent of the total budget. In addition,
11 three-fourths of the Drug Medi-Cal program budget is spent on
12 methadone treatment, a service that minors are prohibited from

1 availing themselves of according to both state and federal statute.
2 Another drug treatment resource that youths are restricted from
3 using are the funds allocated by Proposition 36.

4 (b) Services that minors may consent to without parental
5 approval under the Medi-Cal program (Medi-Cal minor consent
6 services) do not include residential drug treatment services.

7 (c) In California, under current funding and licensing
8 requirements, the only setting for residential youth alcohol and
9 drug treatment is either a child welfare-based group home or an
10 adult residential alcohol and drug treatment program that has a
11 state waiver to admit a very small number of youth.

12 (d) By expanding the scope of benefits for Medi-Cal minor
13 consent services to include residential substance abuse treatment,
14 service providers will have an increased incentive to establish
15 residential substance abuse treatment facilities.

16 (e) Neither the reimbursement rate nor the scope of benefits of
17 Medi-Cal minor consent drug treatment services comes close to
18 meeting the demands of the caseload.

19 (f) The American Society of Addiction Medicine has
20 recommended that substance abuse treatment should include a
21 continuum of care in which preventative, outpatient, residential,
22 and followup treatment services are available to youth suffering
23 from substance abuse disorders.

24 (g) Our culture often views substance abuse disorders as
25 “adult disorders,” a fact that has unfortunately resulted in an
26 adult-driven system of care and treatment for those suffering
27 from substance abuse disorders.

28 (h) Today, California has the highest treatment gap, on a
29 percentage basis, in the nation for persons 12 years of age and
30 over.

31 (i) Estimates based on the Federal Substance Abuse and
32 Mental Health Services Administration’s 2003 National Survey
33 on Drug Use and Health indicate that, in 2002, approximately
34 468,000 persons between the ages of 12 and 18 years in
35 California had a substance abuse problem that warranted
36 treatment. In that same year, only 18,965 youth in that age group
37 were actually admitted to publicly financed substance abuse
38 treatment.

39 (j) The Center for Substance Abuse Treatment estimates that 1
40 in 10 adolescents who need substance abuse treatment actually

1 receives it, and of those who receive treatment, only 25 percent
2 receive enough treatment.

3 (k) The State Department of Education reported that, during
4 the 2001–02 academic year, 42 percent of the 8,133 students who
5 were expelled were mandatorily excused due to drug and alcohol
6 violations.

7 (l) The State Department of Alcohol and Drug Programs has
8 calculated the cost of residential drug treatment in the community
9 to be \$175 per day, per youth.

10 (m) Over the seven-year period between 1990 and 1997, the
11 adult drug arrest rate in California decreased by 11 percent,
12 whereas the juvenile drug arrest rate increased by 39 percent. No
13 studies specific to California juvenile drug arrest rates have been
14 conducted since 1999, so these figures are the most relevant data
15 available.

16 (n) In a recent study conducted at the University of California,
17 Los Angeles, researchers concluded that untreated addictions are
18 what bring youths into the juvenile justice system in the first
19 place.

20 (o) According to a report by the Schwab Foundation in 2004,
21 the majority of youth entering substance abuse treatment in
22 California are referred through the juvenile justice system.

23 (p) The increasing trend of youth substance abuse disorders is
24 compounded by the lack of drug treatment in the juvenile
25 institutional setting. In the juvenile halls and probation camps of
26 the County of Los Angeles, while substance abuse case
27 management services are provided, no substance abuse treatment
28 exists, except for those youths with a combination of substance
29 abuse and mental health disorders.

30 (q) As long as youths remain in custody, youths suffering from
31 substance abuse disorders do not receive substance abuse
32 treatment unless they are transferred into state custody within the
33 Division of Juvenile Justice, formerly the California Youth
34 Authority, or until they enter the adult incarceration system.

35 (r) Incarcerated youths are not covered under Medi-Cal minor
36 consent services. This poses a great problem for youth who are in
37 the middle of a drug treatment program at the time of their
38 arrests, as they are not able to continue drug treatment while in
39 custody, and therefore are more likely to return to the juvenile
40 justice system for drug-related offences.

1 SEC. 2. Section 11758.46 of the Health and Safety Code is
2 amended to read:

3 11758.46. (a) For purposes of this section, “Drug Medi-Cal
4 services” means all of the following services, administered by the
5 department, and to the extent consistent with state and federal
6 law:

7 (1) Narcotic treatment program services, as set forth in Section
8 11758.42.

9 (2) Day care rehabilitative services.

10 (3) Perinatal residential services for pregnant women and
11 women in the postpartum period.

12 (4) Naltrexone services.

13 (5) Outpatient drug-free services.

14 (6) *Residential drug and alcohol treatment services for minors*
15 *12 years of age and older, including minors who may consent to*
16 *treatment pursuant to Section 6929 of the Family Code,*
17 *regardless of the availability of federal financial participation.*

18 (b) Upon federal approval of a federal medicaid state plan
19 amendment authorizing federal financial participation in the
20 following services, and subject to appropriation of funds, “Drug
21 Medi-Cal services” shall also include the following services,
22 administered by the department, and to the extent consistent with
23 state and federal law:

24 (1) Notwithstanding subdivision (a) of Section 14132.90 of the
25 Welfare and Institutions Code, day care habilitative services,
26 which, for purposes of this paragraph, are outpatient counseling
27 and rehabilitation services provided to persons with alcohol or
28 other drug abuse diagnoses.

29 (2) Case management services, including supportive services
30 to assist persons with alcohol or other drug abuse diagnoses in
31 gaining access to medical, social, educational, and other needed
32 services.

33 (3) Aftercare services.

34 (c) (1) Annually, the department shall publish procedures for
35 contracting for Drug Medi-Cal services with certified providers
36 and for claiming payments, including procedures and
37 specifications for electronic data submission for services
38 rendered.

39 (2) The department, county alcohol and drug program
40 administrators, and alcohol and drug service providers shall

1 automate the claiming process and the process for the submission
2 of specific data required in connection with reimbursement for
3 Drug Medi-Cal services, except that this requirement applies
4 only if funding is available from sources other than those made
5 available for treatment or other services.

6 (d) A county or a contractor for the provision of Drug
7 Medi-Cal services shall notify the department, within 30 days of
8 the receipt of the county allocation, of its intent to contract, as a
9 component of the single state-county contract, and provide
10 certified services pursuant to Section 11758.42, for the proposed
11 budget year. The notification shall include an accurate and
12 complete budget proposal, the structure of which shall be
13 mutually agreed to by county alcohol and drug program
14 administrators and the department, in the format provided by the
15 department, for specific services, for a specific time period, and
16 including estimated units of service, estimated rate per unit
17 consistent with law and regulations, and total estimated cost for
18 appropriate services.

19 (e) (1) Within 30 days of receipt of the proposal described in
20 subdivision (d), the department shall provide, to counties and
21 contractors proposing to provide Drug Medi-Cal services in the
22 proposed budget year, a proposed multiple-year contract, as a
23 component of the single state-county contract, for these services,
24 a current utilization control plan, and appropriate administrative
25 procedures.

26 (2) A county contracting for alcohol and drug services shall
27 receive a single state-county contract for the net negotiated
28 amount and Drug Medi-Cal services.

29 (3) Contractors contracting for Drug Medi-Cal services shall
30 receive a Drug Medi-Cal contract.

31 (f) (1) Upon receipt of a contract proposal pursuant to
32 subdivision (d), a county and a contractor seeking to provide
33 reimbursable Drug Medi-Cal services and the department may
34 begin negotiations and the process for contract approval.

35 (2) If a county does not approve a contract by July 1 of the
36 appropriate fiscal year, in accordance with subdivisions (c) to (e),
37 inclusive, the county shall have 30 additional days in which to
38 approve a contract. If the county has not approved the contract by
39 the end of that 30-day period, the department shall contract
40 directly for services within 30 days.

1 (3) Counties shall negotiate contracts only with providers
2 certified to provide reimbursable Drug Medi-Cal services and
3 that elect to participate in this program. Upon contract approval
4 by the department, a county shall establish approved contracts
5 with certified providers within 30 days following enactment of
6 the annual Budget Act. A county may establish contract
7 provisions to ensure interim funding pending the execution of
8 final contracts, multiple-year contracts pending final annual
9 approval by the department, and, to the extent allowable under
10 the annual Budget Act, other procedures to ensure timely
11 payment for services.

12 (g) (1) For counties and contractors providing Drug Medi-Cal
13 services, pursuant to approved contracts, and that have accurate
14 and complete claims, reimbursement for services from state
15 General Fund moneys shall commence no later than 45 days
16 following the enactment of the annual Budget Act for the
17 appropriate state fiscal year.

18 (2) For counties and contractors providing Drug Medi-Cal
19 services, pursuant to approved contracts, and that have accurate
20 and complete claims, reimbursement for services from federal
21 medicaid funds shall commence no later than 45 days following
22 the enactment of the annual Budget Act for the appropriate state
23 fiscal year.

24 (3) The State Department of Health Services and the
25 department shall develop methods to ensure timely payment of
26 Drug Medi-Cal claims.

27 (4) The State Department of Health Services, in cooperation
28 with the department, shall take steps necessary to streamline the
29 billing system for reimbursable Drug Medi-Cal services, to assist
30 the department in meeting the billing provisions set forth in this
31 subdivision.

32 (h) The department shall submit a proposed interagency
33 agreement to the State Department of Health Services by May 1
34 for the following fiscal year. Review and interim approval of all
35 contractual and programmatic requirements, except final fiscal
36 estimates, shall be completed by the State Department of Health
37 Services by July 1. The interagency agreement shall not take
38 effect until the annual Budget Act is enacted and fiscal estimates
39 are approved by the State Department of Health Services. Final

1 approval shall be completed within 45 days of enactment of the
2 Budget Act.

3 (i) (1) A county or a provider certified to provide
4 reimbursable Drug Medi-Cal services, that is contracting with the
5 department, shall estimate the cost of those services by April 1 of
6 the fiscal year covered by the contract, and shall amend current
7 contracts, as necessary, by the following July 1.

8 (2) A county or a provider, except for a provider to whom
9 subdivision (j) applies, shall submit accurate and complete cost
10 reports for the previous state fiscal year by November 1,
11 following the end of the state fiscal year. The department may
12 settle cost for Drug Medi-Cal services, based on the cost report
13 as the final amendment to the approved single state-county
14 contract.

15 (j) Certified narcotic treatment program providers, that are
16 exclusively billing the state or the county for services rendered to
17 persons subject to Section 1210.1 of the Penal Code, Section
18 3063.1 of the Penal Code, or Section 11758.42 shall submit
19 accurate and complete performance reports for the previous state
20 fiscal year by November 1 following the end of that state fiscal
21 year. A provider to which this subdivision applies shall estimate
22 its budgets using the uniform state monthly reimbursement rate.
23 The format and content of the performance reports shall be
24 mutually agreed to by the department, the County Alcohol and
25 Drug Program Administrators Association of California, and
26 representatives of the treatment providers.

27 SEC. 3. Section 11758.48 is added to the Health and Safety
28 Code, to read:

29 11758.48. With respect to drug and alcohol treatment services
30 provided to minors 12 years of age and older, including minors
31 who may consent to treatment pursuant to Section 6929 of the
32 Family Code, the department shall offer a continuum of services
33 ranging from residential treatment facilities to individual and
34 group outpatient counseling services, to the extent that these
35 services are not provided by a county. Individual counseling
36 services shall constitute a significant component of the outpatient
37 drug and alcohol counseling services available to those minors.

38 SEC. 4. Section 14053 of the Welfare and Institutions Code is
39 amended to read:

1 14053. (a) The term “health care services” means the
2 benefits set forth in Article 4 (commencing with Section 14131)
3 of this chapter and in Section 14021. The term includes inpatient
4 hospital services for any individual under 21 years of age in an
5 institution for mental diseases. Any individual under 21 years of
6 age receiving inpatient psychiatric hospital services immediately
7 preceding the date on which he or she attains age 21 may
8 continue to receive these services until he or she attains age 22.
9 The term also includes early and periodic screening, diagnosis,
10 and treatment for any individual under 21 years of age.

11 (b) The term “health care services” does not include, except to
12 the extent permitted by federal law, any of the following:

13 (1) Care or services for any individual who is an inmate of an
14 institution ~~(except, except as a patient in a medical institution)~~
15 *institution, or as otherwise provided under Section 14138.2.*

16 (2) Care or services for any individual who has not attained 65
17 years of age and who is a patient in an institution for
18 tuberculosis.

19 (3) Care or services for any individual who is 21 years of age
20 or over, except as provided in the first paragraph of this section,
21 and has not attained 65 years of age and who is a patient in an
22 institution for mental disease.

23 (4) Inpatient services provided to individuals 21 to 64 years of
24 age, inclusive, in an institution for mental diseases operating
25 under a consolidated license with a general acute care hospital
26 pursuant to Section 1250.8 of the Health and Safety Code, unless
27 federal financial participation is available for such inpatient
28 services.

29 SEC. 5. Section 14138.2 is added to the Welfare and
30 Institutions Code, to read:

31 14138.2. Drug and alcohol treatment services for minors who
32 are incarcerated in a juvenile facility, or otherwise under the
33 jurisdiction of the Division of Youth Operations within the
34 Department of Corrections and Rehabilitation, shall be covered
35 under this chapter, subject to utilization controls. This benefit
36 shall apply regardless of the availability of federal financial
37 participation. The services available under this section shall be
38 substantially similar to those available under Chapter 3.4
39 (commencing with Section 11758.40) of Part 1 of Division 10.5

- 1 of the Health and Safety Code, consistent with the legitimate
- 2 security interests of the facility.

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